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Attorneys for Defendants
HSBC MORTGAGE CORPORATION (USA) AND
HSBC BANK USA, N.A.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Philip Wong, Frederic Chaussy, and Leslie
Marie Shearn, individually, on behalf of all
others similarly situated, and on behalf of
the general public,

Plaintiffs,

v.

HSBC Mortgage Corporation (USA);
HSBC Bank USA, N.A.; and DOES 1
through 50, inclusive,

Defendants.

Case No. C 07 2446 MMC [ECF]

**DECLARATION OF MICHELLE R.
BARRETT IN SUPPORT OF
DEFENDANTS' MOTION FOR
ADMINISTRATIVE RELIEF TO FILE
UNDER SEAL**

Date: October 10, 2008
Time: 9:00 a.m.
Courtroom: 7 (19th Floor)
Judge: Hon. Maxine M. Chesney

1 I, MICHELLE BARRETT, declare and state as follows:

2 1. I am an attorney licensed to practice in the State of California and I am a
3 shareholder in the law firm of Littler Mendelson, attorneys for Defendants in the above-captioned
4 matter. I make this declaration in support of Defendant's Motion for Administrative Relief to File
5 Under Seal. I have personal knowledge of the matters set forth below, and if called as a witness, I
6 could testify competently to matters contained therein.

7 2. Attached hereto as Exhibit 1 is a true and correct copy of the Stipulated
8 Protective Order entered into by the parties. Exhibits A through G of Jeanette Jennings' Declaration
9 in support of Defendants' Motion For Rule 11(c) Sanctions are covered under the Stipulated
10 Protective Order because they are marked "Confidential" by Defendants in accordance with the
11 Stipulated Protective Order. Attached hereto as Exhibit 2 is a true and correct copy of Exhibits A
12 through G to Jeanette Jennings Declaration in support of Defendants' Motion For Rule 11(c)
13 Sanctions.

14 3. Exhibit A of Henry Yip's Declaration in support of Defendants' Motion For
15 Rule 11(c) Sanctions are covered under the Stipulated Protective Order because they are marked
16 "Confidential" by Defendants in accordance with the Stipulated Protective Order. Attached hereto
17 as Exhibit 3 is a true and correct copy of Exhibit A to Yip's Declaration in support of Defendants'
18 motion For Rule 11(c) Sanctions.

19 4. Exhibit A to Ron Lord's Declaration in support of Defendants' Motion For
20 Rule 11(c) Sanctions contains e-mail communications. Attached hereto as Exhibit 4 is a true and
21 correct copy of Exhibit A to Ron Lord's Declaration in support of Defendants' Motion for Rule
22 11(c) Sanctions.

23 5. The parties have a dispute as to whether the e-mail communications contained
24 in Exhibit A of Lord's Declaration are subject to the attorney-client privilege. Attached hereto as
25 Exhibit 5 is a true and correct copy of a letter I sent to Plaintiffs' counsel, Bryan Schwartz
26 ("Schwartz") on April 7, 2008 stating Defendants' position that Plaintiff Wong waived the attorney-
27 client privilege to e-mail communications exchanged on the company's email system.

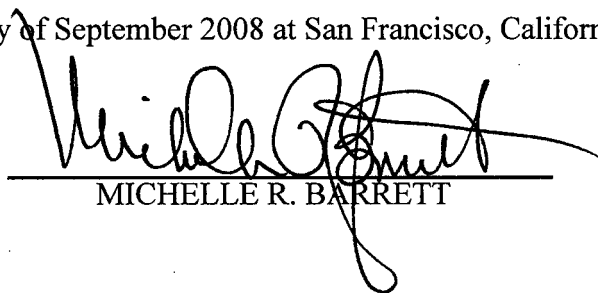
1 6. On April 9, 2008, Schwartz responded to my April 7 letter via e-mail.
2 Attached hereto as Exhibit 6 is a true and correct copy of Schwartz's e-mail.

3 7. Exhibits F and G to my declaration in support of Defendants' Motion For
4 Rule 11(c) Sanctions, contain confidential and private financial information about HSBC Mortgage
5 Corporation (USA) ("HMCU") and putative class members, as well as customers of HMCU.
6 Attached hereto as Exhibit 7 is a true and correct copy of Exhibit F to my declaration in support of
7 Defendants' Motion for Rule 11(c) Sanctions. Attached hereto as Exhibit 8 is a true and correct
8 copy of Exhibit G to my declaration in support of Defendants' Motion for Rule 11(c) Sanctions.

9 8. The public disclosure of the confidential information contained in Exhibits F
10 and G to my Declaration in support of Defendants' Motion for Rule 11(c) Sanctions would cause
11 Constitutionally protected private information to be disclosed in public documents. Moreover,
12 public disclosure of this information is in violation of several of Defendants' policies regarding the
13 protection of confidential, proprietary, financial and/or sales data. As financial institutions,
14 Defendants have a very strong and legitimate interest in keeping this information confidential and
15 from public disclosure.

16 I declare under penalty of perjury under the laws of the State of California that the
17 foregoing is true and correct. Executed this 5th day of September 2008 at San Francisco, California.

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MICHELLE R. BARRETT

Firmwide:86531554.1 023404.1043

EXHIBIT 1

1 DONALD H. NICHOLS, MN State Bar No. 78918
 (admitted pro hac vice)
 2 PAUL J. LUKAS, MN State Bar No. 22084X
 (admitted pro hac vice)
 3 TIMOTHY C. SELANDER, MN State Bar No. 0387016
 (admitted pro hac vice)
 4 NICHOLS KASTER & ANDERSON, PLLP
 5 4600 IDS Center
 80 S. 8th Street
 6 Minneapolis, MN 55402

7 Bryan J. Schwartz, CA State Bar No. 209903
 8 Matthew C. Helland, CA State Bar No. 250451
 NICHOLS KASTER & ANDERSON, LLP
 9 One Embarcadero Center, Ste. 720
 San Francisco, CA 94111

10 Attorneys for Individual and Representative Plaintiffs
 11

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 MICHELLE R. BARRETT, CA Bar No. 197280
 13 LITTLER MENDELSON
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 16

17 Attorneys for Defendants
 HSBC MORTGAGE CORPORATION (USA) and HSBC
 18 BANK USA, N.A.

19 UNITED STATES DISTRICT COURT
 20 NORTHERN DISTRICT OF CALIFORNIA
 21

22 Philip Wong, Frederic Chaussy, and Leslie
 23 Marie Shearn, individually, on behalf of all
 24 others similarly situated, and on behalf of
 the general public.,

Plaintiffs,

v.

26 HSBC Mortgage Corporation (USA);
 HSBC Bank USA, N.A.; and DOES 1
 27 through 50, inclusive,

Defendants.
 28

Case No. C 07 2446 MMC (JCS)

STIPULATED PROTECTIVE ORDER

STIPULATED PROTECTIVE ORDER

Case No. C 07 2446 MMC (JCS)

1 **PURPOSE AND LIMITATIONS**

2 Disclosure and discovery activity in this action are likely to involve production of
3 confidential, proprietary, or private information for which special protection from public disclosure
4 and from use for any purpose other than prosecuting this litigation would be warranted. Accordingly,
5 the parties hereby stipulate to and petition the court to enter the following Stipulated Protective
6 Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures
7 or responses to discovery and that the protection it affords extends only to the limited information or
8 items that are entitled under the applicable legal principles to treatment as confidential. The parties
9 further acknowledge, as set forth in Section 10, below, that this Stipulated Protective Order creates
10 no entitlement to file confidential information under seal; Civil Local Rule 79-5 sets forth the
11 procedures that must be followed and reflects the standards that will be applied when a party seeks
12 permission from the court to file material under seal.

13 **2. DEFINITIONS**

14 2.1 Party: any party to this action, including all of its officers, directors, employees,
15 consultants, retained experts, and outside counsel (and their support staff).

16 2.2 Disclosure or Discovery Material: all items or information, regardless of the medium
17 or manner generated, stored, or maintained (including, among other things, testimony, transcripts, or
18 tangible things) that are produced or generated in disclosures or responses to discovery in this
19 matter.

20 2.3 "Confidential" Information or Items: information (regardless of how generated,
21 stored or maintained) or tangible things that qualify for protection under standards developed under
22 F.R.Civ.P. 26(c). The parties expressly agree that Confidential Information or Items shall include
23 Disclosure or Discovery Material, such as personnel files, that constitutes or contains sensitive
24 employment and personal information about employees, former employees, and/or nonparties to this
25 action which, if disclosed to others, would unreasonably harm the confidentiality interest of these
26 nonparties.

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1 2.4 "Highly Confidential—Attorneys' Eyes Only" Information or Items: extremely
2 sensitive "Confidential Information or Items" whose disclosure to another Party or non-party would
3 create a substantial risk of serious injury that could not be avoided by less restrictive means.

4 2.5 Receiving Party: a Party that receives Disclosure or Discovery Material from a
5 Producing Party.

6 2.6 Producing Party: a Party or non-party that produces Disclosure or Discovery Material
7 in this action.

8 2.7 Designating Party: a Party or non-party that designates information or items that it
9 produces in disclosures or in responses to discovery as "Confidential" or "Highly Confidential—
10 Attorneys' Eyes Only."

11 2.8 Protected Material: any Disclosure or Discovery Material that is designated as
12 "Confidential" or as "Highly Confidential—Attorneys' Eyes Only."

13 2.9 Outside Counsel: attorneys who are not employees of a Party but who are retained to
14 represent or advise a Party in this action.

15 2.10 House Counsel: attorneys who are employees of a Party.

16 2.11 Counsel (without qualifier): Outside Counsel and House Counsel (as well as their
17 support staffs).

18 2.12 Expert: a person with specialized knowledge or experience in a matter pertinent to
19 the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a
20 consultant in this action and who is not a past or a current employee of a Party or of a competitor of
21 a Party's and who, at the time of retention, is not anticipated to become an employee of a Party or a
22 competitor of a Party's. This definition includes a professional jury or trial consultant retained in
23 connection with this litigation.

24 2.13 Professional Vendors: persons or entities that provide litigation support services
25 (e.g., photocopying; videotaping; translating; preparing exhibits or demonstrations; organizing,
26 storing, retrieving data in any form or medium; etc.) and their employees and subcontractors.

27 3. SCOPE
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1 The protections conferred by this Stipulation and Order cover not only Protected Material (as
2 defined above), but also any information copied or extracted therefrom, as well as all copies,
3 excerpts, summaries, or compilations thereof, plus testimony, conversations, or presentations by
4 parties or counsel to or in court or in other settings that might reveal Protected Material.

5 **4. DURATION**

6 Even after the termination of this litigation, the confidentiality obligations imposed by this
7 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order
8 otherwise directs.

9 **5. DESIGNATING PROTECTED MATERIAL**

10 **5.1 Exercise of Restraint and Care in Designating Material for Protection.** Each Party or
11 non-party that designates information or items for protection under this Order must take care to limit
12 any such designation to specific material that qualifies under the appropriate standards. A
13 Designating Party must take care to designate for protection only those parts of material, documents,
14 items, or oral or written communications that qualify—so that other portions of the material,
15 documents, items, or communications for which protection is not warranted are not swept
16 unjustifiably within the ambit of this Order.

17 Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown
18 to be clearly unjustified, or that have been made for an improper purpose (e.g., to unnecessarily
19 encumber or retard the case development process, or to impose unnecessary expenses and burdens
20 on other parties), expose the Designating Party to sanctions.

21 If it comes to a Party's or a non-party's attention that information or items that it designated
22 for protection do not qualify for protection at all, or do not qualify for the level of protection initially
23 asserted, that Party or non-party must promptly notify all other parties that it is withdrawing the
24 mistaken designation.

25 **5.2 Manner and Timing of Designations.** Except as otherwise provided in this Order
26 (see, e.g., second paragraph of section 5.2(a), below), or as otherwise stipulated or ordered, material
27 that qualifies for protection under this Order must be clearly so designated before the material is
28 disclosed or produced.

1 Designation in conformity with this Order requires:

2 (a) for information in documentary form (apart from transcripts of depositions or other
3 pretrial or trial proceedings), that the Producing Party affix the legend "CONFIDENTIAL" or
4 "HIGHLY CONFIDENTIAL—ATTORNEYS' EYES ONLY" at the top of each page that contains
5 protected material. If only a portion or portions of the material on a page qualifies for protection, the
6 Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate
7 markings in the margins) and must specify, for each portion, the level of protection being asserted
8 (either "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL—ATTORNEYS' EYES ONLY").

9 A Party or non-party that makes original documents or materials available for inspection
10 need not designate them for protection until after the inspecting Party has indicated which material it
11 would like copied and produced. During the inspection and before the designation, all of the
12 material made available for inspection shall be deemed "HIGHLY CONFIDENTIAL—
13 ATTORNEYS' EYES ONLY." After the inspecting Party has identified the documents it wants
14 copied and produced, the Producing Party must determine which documents, or portions thereof,
15 ~~qualify for protection under this Order~~, then, before producing the specified documents, the
16 Producing Party must affix the appropriate legend ("CONFIDENTIAL" or "HIGHLY
17 CONFIDENTIAL—ATTORNEYS' EYES ONLY") at the top of each page that contains Protected
18 Material. If only a portion or portions of the material on a page qualifies for protection, the
19 Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate
20 markings in the margins) and must specify, for each portion, the level of protection being asserted
21 (either "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL—ATTORNEYS' EYES ONLY").

22 (b) for testimony given in deposition or in other pretrial or trial proceedings, that the
23 Party or non-party offering or sponsoring the testimony identify on the record, before the close of the
24 deposition, hearing, or other proceeding, all protected testimony, and further specify any portions of
25 the testimony that qualify as "HIGHLY CONFIDENTIAL—ATTORNEYS' EYES ONLY." When
26 it is impractical to identify separately each portion of testimony that is entitled to protection, and
27 when it appears that substantial portions of the testimony may qualify for protection, the Party or
28 non-party that sponsors, offers, or gives the testimony may invoke on the record (before the

1 deposition or proceeding is concluded) a right to have up to 20 days to identify the specific portions
2 of the testimony as to which protection is sought and to specify the level of protection being asserted
3 ("CONFIDENTIAL" or "HIGHLY CONFIDENTIAL—ATTORNEYS' EYES ONLY"). Only
4 those portions of the testimony that are appropriately designated for protection within the 20 days
5 shall be covered by the provisions of this Stipulated Protective Order.

6 Transcript pages containing Protected Material must be separately bound by the court
7 reporter, who must affix to the top of each such page the legend "CONFIDENTIAL" or "HIGHLY
8 CONFIDENTIAL—ATTORNEYS' EYES ONLY," as instructed by the Party or non-party offering
9 or sponsoring the witness or presenting the testimony.

10 (c) for information produced in some form other than documentary, and for any other
11 tangible items, that the Producing Party affix in a prominent place on the exterior of the container or
12 containers in which the information or item is stored the legend "CONFIDENTIAL" or "HIGHLY
13 CONFIDENTIAL—ATTORNEYS' EYES ONLY." If only portions of the information or item
14 warrant protection, the Producing Party, to the extent practicable, shall identify the protected
15 portions, specifying whether they qualify as "Confidential" or as "Highly Confidential—Attorneys'
16 Eyes Only."

17 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
18 designate qualified information or items as "Confidential" or "Highly Confidential—Attorneys'
19 Eyes Only" does not, standing alone, waive the Designating Party's right to secure protection under
20 this Order for such material. If material is appropriately designated as "Confidential" or "Highly
21 Confidential—Attorneys' Eyes Only" after the material was initially produced, the Receiving Party,
22 on timely notification of the designation, must make reasonable efforts to assure that the material is
23 treated in accordance with the provisions of this Order.

24 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

25 6.1 Timing of Challenges. Unless a prompt challenge to a Designating Party's
26 confidentiality designation is necessary to avoid foreseeable substantial unfairness, unnecessary
27 economic burdens, or a later significant disruption or delay of the litigation, a Party does not waive
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1 its right to challenge a confidentiality designation by electing not to mount a challenge promptly
2 after the original designation is disclosed.

3 **6.2 Meet and Confer.** A Party that elects to initiate a challenge to a Designating Party's
4 confidentiality designation must do so in good faith and must begin the process by conferring
5 directly (in voice to voice dialogue; other forms of communication are not sufficient) with counsel
6 for the Designating Party. In conferring, the challenging Party must explain the basis for its belief
7 that the confidentiality designation was not proper and must give the Designating Party an
8 opportunity to review the designated material, to reconsider the circumstances, and, if no change in
9 designation is offered, to explain the basis for the chosen designation. A challenging Party may
10 proceed to the next stage of the challenge process only if it has engaged in this meet and confer
11 process first.

12 **6.3 Judicial Intervention.** A Party that elects to press a challenge to a confidentiality
13 designation after considering the justification offered by the Designating Party may file and serve a
14 motion under Civil Local Rule 7 (and in compliance with Civil Local Rule 79-5, if applicable) that
15 identifies the challenged material and sets forth in detail the basis for the challenge. Each such
16 motion must be accompanied by a competent declaration that affirms that the movant has complied
17 with the meet and confer requirements imposed in the preceding paragraph and that sets forth with
18 specificity the justification for the confidentiality designation that was given by the Designating
19 Party in the meet and confer dialogue.

20 The burden of persuasion in any such challenge proceeding shall be on the Designating
21 Party. Until the court rules on the challenge, all parties shall continue to afford the material in
22 question the level of protection to which it is entitled under the Producing Party's designation.

23 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

24 **7.1 Basic Principles.** A Receiving Party may use Protected Material that is disclosed or
25 produced by another Party or by a non-party in connection with this case only for prosecuting,
26 defending, or attempting to settle this litigation. Such Protected Material may be disclosed only to
27 the categories of persons and under the conditions described in this Order. When the litigation has
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1 been terminated, a Receiving Party must comply with the provisions of section 11, below (FINAL
2 DISPOSITION).

3 Protected Material must be stored and maintained by a Receiving Party at a location and in a
4 secure manner that ensures that access is limited to the persons authorized under this Order.

5 **7.2 Disclosure of "CONFIDENTIAL" Information or Items.** Unless otherwise ordered
6 by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any
7 information or item designated CONFIDENTIAL only to:

8 (a) the Receiving Party's Outside Counsel of record in this action, as well as employees
9 of said Counsel to whom it is reasonably necessary to disclose the information for this litigation and
10 who have signed the "Agreement to Be Bound by Protective Order" that is attached hereto as Exhibit
11 A;

12 (b) the officers, directors, and employees (including House Counsel) of the Receiving
13 Party to whom disclosure is reasonably necessary for this litigation and who have signed the
14 "Agreement to Be Bound by Protective Order" (Exhibit A);

15 (c) ~~experts (as defined in this Order) of the Receiving Party to whom disclosure is~~
16 ~~reasonably necessary for this litigation and who have signed the "Agreement to Be Bound by~~
17 ~~Protective Order" (Exhibit A);~~

18 (d) the Court and its personnel;

19 (e) court reporters, their staffs, and professional vendors to whom disclosure is
20 reasonably necessary for this litigation and who have signed the "Agreement to Be Bound by
21 Protective Order" (Exhibit A);

22 (f) during their depositions, witnesses in the action to whom disclosure is reasonably
23 necessary and who have signed the "Agreement to Be Bound by Protective Order" (Exhibit A).

24 Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material
25 must be separately bound by the court reporter and may not be disclosed to anyone except as
26 permitted under this Stipulated Protective Order.

27 (g) the author of the document or the original source of the information.

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1 7.3 Disclosure of "HIGHLY CONFIDENTIAL—ATTORNEYS' EYES ONLY"
2 Information or Items. Unless otherwise ordered by the court or permitted in writing by the
3 Designating Party, a Receiving Party may disclose any information or item designated "HIGHLY
4 CONFIDENTIAL—ATTORNEYS' EYES ONLY" only to:

5 (a) (a) the Receiving Party's Outside Counsel of record in this action, as well as
6 employees of said Counsel to whom it is reasonably necessary to disclose the information for this
7 litigation and who have signed the "Agreement to Be Bound by Protective Order" that is attached
8 hereto as Exhibit A;

9 (b) House Counsel of a Receiving Party (1) to whom disclosure is reasonably necessary
10 for this litigation, and (2) who has signed the "Agreement to Be Bound by Protective Order"
11 (Exhibit A);

12 (c) Experts (as defined in this Order) (1) to whom disclosure is reasonably necessary for
13 this litigation, and (2) who have signed the "Agreement to Be Bound by Protective Order" (Exhibit
14 A);

15 (d) the Court and its personnel;

16 (e) court reporters, their staffs, and professional vendors to whom disclosure is
17 reasonably necessary for this litigation and who have signed the "Agreement to Be Bound by
18 Protective Order" (Exhibit A); and

19 (f) the author of the document or the original source of the information.

20 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER
21 LITIGATION.

22 If a Receiving Party is served with a subpoena or an order issued in other litigation that
23 would compel disclosure of any information or items designated in this action as
24 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL—ATTORNEYS' EYES ONLY," the
25 Receiving Party must so notify the Designating Party, in writing (by fax, if possible) immediately
26 and in no event more than three court days after receiving the subpoena or order. Such notification
27 must include a copy of the subpoena or court order.

1 The Receiving Party also must immediately inform in writing the Party who caused the
2 subpoena or order to issue in the other litigation that some or all the material covered by the
3 subpoena or order is the subject of this Protective Order. In addition, the Receiving Party must
4 deliver a copy of this Stipulated Protective Order promptly to the Party in the other action that
5 caused the subpoena or order to issue.

6 The purpose of imposing these duties is to alert the interested parties to the existence of this
7 Protective Order and to afford the Designating Party in this case an opportunity to try to protect its
8 confidentiality interests in the court from which the subpoena or order issued. The Designating
9 Party shall bear the burdens and the expenses of seeking protection in that court of its confidential
10 material—and nothing in these provisions should be construed as authorizing or encouraging a
11 Receiving Party in this action to disobey a lawful directive from another court.

12 **9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

13 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected
14 Material to any person or in any circumstance not authorized under this Stipulated Protective Order,
15 the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized
16 disclosures, (b) use its best efforts to retrieve all copies of the Protected Material, (c) inform the
17 person or persons to whom unauthorized disclosures were made of all the terms of this Order, and
18 (d) request such person or persons to execute the "Acknowledgment and Agreement to Be Bound"
19 that is attached hereto as Exhibit A.

20 **10. FILING PROTECTED MATERIAL**

21 Without written permission from the Designating Party or a court order secured after
22 appropriate notice to all interested persons, a Party may not file in the public record in this action
23 any Protected Material. A Party that seeks to file under seal any Protected Material must comply
24 with Civil Local Rule 79-5.

25 **11. FINAL DISPOSITION**

26 Unless otherwise ordered or agreed in writing by the Producing Party, within sixty days after
27 the final termination of this action, each Receiving Party must return all Protected Material to the
28 Producing Party. As used in this subdivision, "all Protected Material" includes all copies, abstracts,

1 compilations, summaries or any other form of reproducing or capturing any of the Protected
2 Material. With permission in writing from the Designating Party, the Receiving Party may destroy
3 some or all of the Protected Material instead of returning it. Whether the Protected Material is
4 returned or destroyed, the Receiving Party must submit a written certification to the Producing Party
5 (and, if not the same person or entity, to the Designating Party) by the sixty day deadline that
6 identifies (by category, where appropriate) all the Protected Material that was returned or destroyed
7 and that affirms that the Receiving Party has not retained any copies, abstracts, compilations,
8 summaries or other forms of reproducing or capturing any of the Protected Material.
9 Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings,
10 motion papers, transcripts, legal memoranda, correspondence or attorney work product, even if such
11 materials contain Protected Material. Any such archival copies that contain or constitute Protected
12 Material remain subject to this Protective Order as set forth in Section 4 (DURATION), above.

13 **12. MISCELLANEOUS**

14 **12.1 Right to Further Relief.** Nothing in this Order abridges the right of any person to seek
15 its modification by the Court in the future.

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1 **12.2 Right to Assert Other Objections.** By stipulating to the entry of this Protective Order
 2 no Party waives any right it otherwise would have to object to disclosing or producing any
 3 information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no
 4 Party waives any right to object on any ground to use in evidence of any of the material covered by
 5 this Protective Order.

6 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

7
 8 DATED: 9/6/07


 BRYAN J. SCHWARTZ
 NICHOLS KASTER & ANDERSON, PLLP
 Attorneys for Individual and Representative
 Plaintiffs

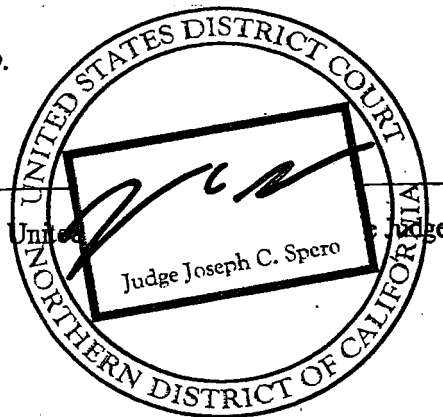
11
 12 DATED: 9/7/07


 MICHELLE R. BARRETT
 LITTLER MENDELSON, P.C.
 Attorneys for Defendants HSBC Mortgage
 Corporation (USA) and HSBC Bank USA, N.A.

15
 16 PURSUANT TO STIPULATION, IT IS SO ORDERED.

17
 18 DATED: Setp. 10, 2007

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 20 Firmwide: 82972679.1 023404.1043



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 LITTLER MENDELSON
 A PROFESSIONAL CORPORATION
 180 California Street
 20th Floor
 San Francisco, CA 94104-2655
 415.425.1940

11.

Case No. C 07 2446 MMC (JCS)

EXHIBIT AACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Northern District of California on [date] in the case of *Philip Wong, Frederic Chaussy, and Leslie Marie Shearn, et al. v. HSBC Mortgage Corporation (USA); HSBC Bank USA, N.A., et al.*, Case No. C 07 2446 MMC (JCS). I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Northern District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

I hereby appoint _____ [print or type full name] of _____ [print or type full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

[printed name]

Signature: _____

[signature]

EXHIBIT 2

THIS EXHIBIT IS FILED WITH DEFENDANTS' MOTION FOR
ADMINISTRATIVE RELIEF TO FILE UNDER SEAL EXHIBITS IN
SUPPORT OF DEFENDANTS' MOTION FOR RULE 11(C) SANCTIONS

EXHIBIT 3

THIS EXHIBIT IS FILED WITH DEFENDANTS' MOTION FOR
ADMINISTRATIVE RELIEF TO FILE UNDER SEAL EXHIBITS IN
SUPPORT OF DEFENDANTS' MOTION FOR RULE 11(C) SANCTIONS

EXHIBIT 4

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EXHIBIT 5



April 7, 2008

Michelle R. Barrett
Direct: 415.677.4089
Direct Fax: 415.743.6618
mbarrett@littler.com

VIA HAND DELIVERY AND PDF

Bryan J. Schwartz, Esq.
Nichols Kaster & Anderson, LLP
One Embarcadero Center, Suite 720
San Francisco, CA 94111

Re: **Philip Wong, et al. v. HSBC Mortgage Corp., et al.**
USDC Action No. C 07-2446 MMC
Defendant HSBC Mortgage Corporation (USA)'s Production of Document
MORT003265-4140

Defendant HSBC Mortgage Corporation (USA)'s Request for Production of Documents to Plaintiff Wong, Set 2

Dear Bryan:

Enclosed please find additional documents (MORT003265-4140) being produced by Defendant HSBC Mortgage Corporation (USA)'s (hereinafter "HMCU") in this matter.

Please note that included as part of HMCU's document production are e-mails marked MORT003658-3660, 3710-3713, and 3736-3737. In addition, an Email Policy (MORT001587-1598) was included with the previous set of documents produced to Plaintiffs on April 1. Under the terms of the Email Policy, which applied to the individuals who were employed by HMCU and used HMCU's email systems as of February 16, 2007, company email may be monitored and any personal use of company e-mail will not be considered private. Further, please also note that per the terms of the "Electronic Monitoring Policy", which has been produced previously in this action and of which Plaintiff Wong has acknowledged receipt, reading, and understanding (see MORT000117 and 120), employees have no expectation of a right of privacy when using company e-mail.

Given Plaintiff's Wong's knowledge of the policy and acknowledgment of his understanding and agreement to abide by this policy, it is clear that Plaintiff Wong has waived the attorney-client privilege with regard to communications with you via his employer's e-mail system. Further, in reviewing Plaintiff Wong's e-mail messages, it is also clear that Plaintiff Wong has also waived the attorney-client privilege by forwarding a chain of messages between himself and you to other

THE NATIONAL EMPLOYMENT & LABOR LAW FIRM™

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Bryan J. Schwartz, Esq.
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Page 2

individuals who were not represented by your firm at the time the chain of messages was sent. See MORT003658-3660, 3710-3713, and 3736-3737.

Please be advised that due to your client's waiver of the privilege, HMCU is seeking all written communications between Plaintiff Wong and your firm through the enclosed Request for Production of Documents. Further, HMCU will conduct a further search of its e-mail system to determine what other e-mail messages may have been sent by your firm to any other HMCU employees.

Very truly yours,



Michelle R. Barrett

MRB
Enclosures

Firmwide:84784878.1 023404.1043

EXHIBIT 6

Barrett, Michelle R.

From: Schwartz, Bryan [schwartz@nka.com]
Sent: Wednesday, April 09, 2008 11:54 AM
To: Barrett, Michelle R.; Tichy, George J.; Curley, Justin T.
Subject: Wong v. HSBC; Return of Privileged Information Inadvertently Disclosed

Michele, Justin, and George,

Plaintiffs have just become aware of the inadvertent disclosure of privileged information (including but not limited to the documents entitled MORT 3215-3218, 3241-3246). Plaintiffs do not waive any attorney-client, work product, or other privileges that apply to these documents, and seek prompt return all documents which reflect or contain communications between myself and/or any other employee of my firm with Philip Wong, Frederic Chaussy, and/or any other HSBC employee or former employee who is a Plaintiff, opt-in Plaintiff, or putative class member in the Wong, et al., v. HSBC Mortgage Corporation (USA) case.

Under Fed.R.Civ.P. 26(b)(5)(B), after being notified of an inadvertent disclosure of privileged information, "a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim." "Once a party claims the attorney-client privilege, the communication sought to be suppressed is presumed confidential." La Jolla Cove Motel and Hotel Apartments, Inc., v. Superior Court, 121 Cal.App.4th 773, 791 (2004), citing Cal.Evid.Code, § 917.

Both the attorney-client privilege and the attorney work product doctrine are interpreted broadly in this Circuit and in this State (In re Grand Jury Subpoena, 357 F.3d 900, 907 (9th Cir.2004); Roberts v. City of Palmdale, 5 Cal.4th 363, 371, 20 Cal.Rptr.2d 330, 853 P.2d 496 (1993)), so we urge you to tread cautiously in this area, so as not to violate the ethical obligations we all share. In particular, the rules of professional responsibility which apply to all of us preclude your searching intentionally to discover information in our clients' email accounts, when you know the information is subject to an asserted or very likely attorney-client or work-product privilege. Such would include all communications between this firm's clients and myself. I note that the ABA's Standing Committee on Ethics and Professional Responsibility, "Formal Opinion 92-368: Inadvertent Disclosure of Confidential Materials (1992)," makes clear that counsel should not seek to review information it has reason to believe was inadvertently disclosed.

Please return the inadvertently disclosed information promptly to my office listed below. Thank you for your prompt attention to this matter.

Bryan Schwartz

the Voice for employees®

Nichols Kaster & Anderson, LLP

Bryan Schwartz
Attorney

One Embarcadero Center
Suite 720

4/28/2008

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The information contained in this transmission is attorney privileged and/or confidential information intended for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited.

4/28/2008

EXHIBIT 7

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